

BANKING
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING

Insurance of Municipal Bonds

Proposed Readoption: N.J.A.C. 11:7

Authorized By: Holly C. Bakke, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1 and 17:1-15e

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2002-389

Submit comments by January 3, 2003 to:

Karen Garfing, Assistant Commissioner
Office of Legislative and Regulatory Affairs
New Jersey Department of Banking and Insurance
P.O. Box 325
Trenton, NJ 08625-0325
Fax: (609) 292-0896
Email: Legsregs@dobi.state.nj.us

The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to readopt N.J.A.C. 11:7 et seq. Insurance of Municipal Bonds, which is scheduled to expire on September 25, 2002, in accordance with N.J.S.A. 52:14B-5.1c. The submission of this notice of proposal to the Office of Administrative Law extends the expiration date 180 days, to March 24, 2003.

The Department has reviewed these rules pertaining to insurance of municipal bonds, and has determined them to be reasonable, necessary and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978). These rules are being proposed for readoption without change.

The Department is charged with regulating the insurance of municipal bonds pursuant to the authority of N.J.S.A. 17:1-8.1 and 17:1-15e. Accordingly, N.J.A.C. 11:7-1, Insurance of Municipal Bonds, was originally adopted and became effective July 23, 1975.

The rules set forth in this chapter provide that insurers shall be properly authorized and licensed in order to engage in the business of writing municipal bond insurance. Moreover, the rules provide measures aimed at protecting the public by establishing minimum capital and surplus, as well as contingency reserve standards for municipal bond insurance. The rules further provide standards for the investment of contingency reserves, limitations and restrictions on the types of municipal bond insurance that may be issued and the total net liability of an insurer with respect to any single issue of municipal bond insurance. Moreover, reserves for unearned premiums, unpaid losses and loss adjustment expenses are required by the rules. The rules state that all reserves required shall be reflected in all financial statements filed with the Department by the municipal bond insurer. Finally, the rules prohibit specific activities that are deemed to be a conflict of interest.

Thus, the Department continues to believe that the rules are reasonable and necessary to effectively regulate municipal bond insurance.

This rule proposal provides for a comment period of 60 days and therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The rules proposed for readoption will continue to provide guidance with respect to requirements for municipal bond insurers. Thus, compliance efforts of all insurers of municipal

bonds will continue to be facilitated by the rules set forth in the chapter. The specific standards prescribed fulfill the Department's regulatory purpose, by preventing abuses and assuring that only authorized insurance companies engage in this type of business. The public has benefited from the supervision that now exists as to the propriety of financial arrangements and the soundness of financial practices with respect to this coverage. Without these rules, insurers would lack guidance with respect to this coverage, which in turn could result in disruptions in the market and resulting risks upon the public.

Economic Impact

Insurers will continue to be required to incur any costs associated with continued compliance with the rules, including capital and surplus, contingency reserves and filing requirements. However, the Department does not believe that these requirements should impose undue burden on insurers. These rules do not impose any new requirements, fees or charges upon insurers of municipal bonds. These rules will continue the existing regulatory framework by which the Department may monitor insurers of municipal bonds to help ensure that such insurers do not become in hazardous financial condition and are otherwise in a position to pay claims when they become due. This in turn should continue to benefit the public and insurers.

Federal Standards Statement

There are no Federal standards that apply to the subject matter of rules proposed for readoption. Therefore, no Federal standards analysis is required.

Jobs Impact

The Department does not anticipate that any jobs will be created, generated or lost as a result of the rules proposed for reoption. The Department believes that insurers should currently possess the professional services necessary to continue to comply with the rules.

Agriculture Industry Impact

The Department does not expect any agriculture industry impact from the rules proposed for reoption.

Regulatory Flexibility Analysis

The rules proposed for reoption should apply to few, if any, “small businesses” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. To the extent that the rules apply to small businesses, they will apply to insurers licensed to transact municipal bond insurance in this State. The compliance, recordkeeping and financial reporting requirements imposed by the rules are clearly defined in the rules themselves as outlined in the Summary above. Compliance with various provisions of this chapter must be reflected in all financial statements filed by insurers engaged in the business of issuing policies insuring municipal bonds.

The Department has determined that the rules proposed for reoption continue to be reasonable and necessary to help assure the financial stability and integrity of municipal bond insurance. Insurance of municipal bonds is imbued with a significant public interest because it provides unique benefits for public entities. Municipal bond insurance permits these public entities to obtain funding at a lower interest rate, which saves costs in financing public projects. The requirements set forth in the rules promote the long-term financial integrity of the insurers

that transact this line of business. Therefore, the rules properly apply to all insurers without regard to size. Future annual costs of compliance with these rules are not expected to differ from current annual costs. (See Economic Impact statement above). The use of professional services of actuaries and accountants as currently required by the rules will continue to be necessary. These professional services should continue to be available either on the staff of insurers or from independent firms.

Therefore, to ensure consistency and uniformity in the regulation and supervision of insurers transacting municipal bond insurance, the proposed readoption provides no differentiation in compliance requirements based on insurer size.

Smart Growth Statement

The rules proposed for readoption have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full Text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 11:7.